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8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

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11 UNITED STATES OF AMERICA,  
12 Plaintiff,

13 vs.

14 TRAVONE FRANKLIN,  
15 Defendant.

2:11-cr-340-PMP-CWH

**DEFENDANT'S FORMAL**  
**OBJECTIONS AND SENTENCING**  
**MEMORANDUM**

16 Certification: This sentencing memorandum is timely filed.

17 Defendant, TRAVONE FRANKLIN (herein "Mr. Franklin") by and through his attorney  
18 of record, Monique Kirtley, Assistant Federal Public Defender, hereby files this Sentencing  
19 Memorandum for this Honorable Court's consideration at the sentencing hearing scheduled before  
20 this court. Mr. Franklin respectfully reserves the right to supplement this memorandum with  
21 additional evidence and/or argument at the sentencing hearing.

22 DATED this 9<sup>th</sup> day of September, 2013.

23 Respectfully submitted by,

24 RENE L. VALLADARES  
Federal Public Defender

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26 /s/ Monique Kirtley

27 By: MONIQUE KIRTLEY  
Assistant Federal Public Defender  
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**POINTS AND AUTHORITIES**

**I. Statement of Facts and Guideline Calculation**

On March 6, 2013, Mr. Franklin appeared before this Court and pursuant to a written plea agreement, pled guilty to a single count Superseding Criminal Information charging him with Coercion and Enticement, in violation of 18 U.S.C. § 2422(a).

The Pre-Sentence Report (PSR) was timely disclosed by the probation officer to counsel for the parties. Probation has calculated Mr. Franklin's adjusted base offense level at 28. *See* PSR at ¶ 36. Mr. Franklin's total offense level, minus three level reduction for acceptance of responsibility, is 25. *See* PSR at ¶ 38.

Mr. Franklin's Criminal History Category is VI. With a Total Base Offense level of 25 and a Criminal History Category VI. Mr. Franklin's advisory guideline range is 110-137 months. A sentence, as recommended the plea agreement of 102 months (8 ½ years) is sufficient but not greater than necessary.

**II. Sentencing Recommendation**

**A. Custody**

Mr. Franklin agrees with the parties stated position in the plea agreement to recommend a sentence of 8 ½ years of incarceration. *Plea Agreement, lines 4-5 at page 9* ("The parties jointly recommend that the Court sentence the defendant to a period of 8 ½ years of incarceration. . ."). The probation office, however, recommends a sentence of 137 months, which is the high end of Mr. Franklin's Advisory Guideline Range. However, Mr. Franklin respectfully requests that this Court provide him with the benefit of his bargain, (i.e. the negotiated plea agreement).

Mr. Franklin by no means attempts to minimize the serious nature and circumstances surrounding this offense. However, a sentence of 102 months is reasonable due to the fact that the negotiated sentencing calculations in his plea agreement fully take into consideration the nature and circumstances surrounding this offense.

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1 Title 18 United States Code Section 3553(a) provides that the court shall impose a sentence  
2 sufficient, but not greater than necessary. In their joint recommendation to the court, the United  
3 States and Mr. Franklin considered and incorporated the seven factors listed in Section 3553 when  
4 they arrived at the recommended sentence of 102 months (8 ½ years).

5 First by allowing Mr. Franklin the benefit of his plea negotiations it will help to avoid  
6 unwarranted sentencing disparity. 18 U.S.C. § 3553(a)(6). When the parties agree on a particular  
7 sentence—and then a different sentence is imposed—that chain of events creates disparity in the  
8 negotiation process and the sentencing of different individuals who the parties agree should receive  
9 similar treatment.

10 The plea agreement takes into consideration the seriousness of this offense, which is  
11 reflected in the factual basis portion of the plea agreement and his plea to a Superseding Criminal  
12 Information. The stipulations to the application of the advisory guidelines, the 8 ½ year period of  
13 incarceration, clearly reflects that the parties took into consideration the types of sentences available,  
14 deterrence from further criminal conduct, and the protection of the public from further crimes of the  
15 defendant. 18 U.S.C. §§ 3553(a)(2)(A), (B), & (C).

16 The history and characteristics of Mr. Smith are taken into consideration in the criminal  
17 history category VI designation. 18 U.S.C. § 3553(a)(1).

18 A sentence of 102 months, as outlined in the plea agreement, will provide and allow Mr.  
19 Smith enroll and complete educational and drug programs within the Bureau of Prisons setting and  
20 will help to break his criminal cycle upon his release.

21 **III. The Application of the Lifetime Supervision under 18 U.S.C. § 3583(b) and**  
22 **U.S.S.G. § 5D1.2 Creates a Period of Supervised Release Which is Far Greater**  
**than Necessary**

23 The primary goal of supervised release is to ease the defendant's transition into the  
24 community after the service of a long prison term for a particularly serious offense or to provide  
25 rehabilitation to a defendant who has spent a fairly short period in prison for punishment or other  
26 purposes but still needs supervision and training programs after release. See S.Rep. No. 98-225,  
27 p.124 (1983).

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1           When determining the length of defendant's supervised release, courts are required to  
2 consider, among other factors, "the nature and circumstances of the offense and the history and  
3 characteristics of the defendant," "the need ... to afford adequate deterrence to criminal conduct; ...  
4 to protect the public from further crimes of the defendant; ... and to provide the defendant with  
5 needed educational or vocational training, medical care, or other correctional treatment. *See*  
6 U.S.S.G. § 3583(c)(2013).

7           Here Mr. Franklin will be serving a significant amount of incarceration time for the instant  
8 offense. During his period of incarceration, Mr. Franklin will be able to complete various  
9 educational and vocational programs at a suitable Federal Bureau of Prisons. Upon Mr. Franklin's  
10 release from imprisonment a ten-year term of supervision will allow him to participate in further  
11 educational and vocational training.

12           A ten-year period of supervision is sufficient because, pursuant to 18 U.S.C. § 3573(d),  
13 Mr. Franklin will be subject to mandatory state and federal registration as a sex offender. The  
14 requirement to register as a sex offender will apply throughout his life therefore the public will still  
15 be protected from any further crimes of the defendant. Additionally, by the time Mr. Franklin has  
16 served his period of incarceration and a ten-year period of supervision he will be approximately  
17 fifty-four years old. The risk of recidivism decreases with age. The length of supervised release  
18 lies within the discretion of this Court, Mr. Franklin respectfully requests that this Court sentence  
19 him to a ten year term of supervised release.

20           If this Court determines that lifetime supervision is appropriate, then Mr. Franklin  
21 respectfully requests that he be allowed to have an automatic review of his supervision after 10  
22 years and that his judgement reflect this fact.

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**CONCLUSION**

In light of the following Mr. Franklin respectfully requests that this Court grant him the benefit of his plea and sentence him but pursuant to the recommended sentence, as contained in the plea agreement, to 8 ½ years (102 months). Additionally, Mr. Franklin requests that he be sentenced to a 10 year term of supervised release or in the alternative that he be granted automatic review after 10 years of supervision.

DATED this 9<sup>th</sup> day of September, 2013.

Respectfully submitted by,

RENE L. VALLADARES  
Federal Public Defender

*/s/ Monique Kirtley*  
By: MONIQUE KIRTLEY  
Assistant Federal Public Defender

